

REFERENCE TITLE: hospitals; patient protection; nurses' rights

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2041

Introduced by  
Representatives Prezelski: Gallardo, Lopes, McClure, Sinema, Thrasher

AN ACT

REPEALING TITLE 36, CHAPTER 4, ARTICLE 11, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 11; RELATING TO PATIENT PROTECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Title 36, chapter 4, article 11, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 36, Arizona Revised Statutes, is amended by adding  
5 chapter 11, to read:

6 CHAPTER 11

7 PATIENT PROTECTION

8 ARTICLE 1. GENERAL PROVISIONS

9 36-1301. Definitions

10 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

11 1. "CLINICAL JUDGMENT" MEANS THE APPLICATION OF THE DIRECT CARE  
12 REGISTERED NURSE'S KNOWLEDGE, SKILL, EXPERTISE AND EXPERIENCE TO MAKE  
13 INDEPENDENT DECISIONS ABOUT PATIENT CARE.

14 2. "COMPETENCE" MEANS THE ABILITY OF THE DIRECT CARE REGISTERED NURSE  
15 TO ACT AND INTEGRATE THE KNOWLEDGE, SKILLS AND INDEPENDENT PROFESSIONAL  
16 JUDGMENT THAT ARE THE BASIS OF SAFE AND THERAPEUTIC PATIENT CARE.

17 3. "CRITICAL ACCESS HOSPITAL" MEANS A FACILITY THAT IS DESIGNATED  
18 PURSUANT TO A MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM ESTABLISHED BY THIS  
19 STATE AND AS DEFINED IN 42 UNITED STATES CODE SECTION 1395x(mm).

20 4. "CRITICAL CARE UNIT" MEANS A NURSING UNIT OF AN ACUTE CARE HOSPITAL  
21 THAT IS ESTABLISHED TO SAFEGUARD AND PROTECT PATIENTS WHOSE SEVERITY OF  
22 MEDICAL CONDITIONS REQUIRES CONTINUOUS MONITORING AND COMPLEX INTERVENTIONS  
23 BY DIRECT CARE REGISTERED NURSES AND WHOSE RESTORATIVE MEASURES AND LEVEL OF  
24 NURSING INTENSITY REQUIRE INTENSIVE CARE THROUGH DIRECT OBSERVATION BY THE  
25 DIRECT CARE REGISTERED NURSE, COMPLEX MONITORING, INTENSIVE INTRICATE  
26 ASSESSMENT, EVALUATION, SPECIALIZED RAPID INTERVENTION AND EDUCATION AND  
27 TEACHING OF THE PATIENT, THE PATIENT'S FAMILY OR OTHER REPRESENTATIVES BY A  
28 COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED NURSE. CRITICAL CARE UNIT  
29 INCLUDES AN INTENSIVE CARE UNIT, BURN CENTER, CORONARY CARE UNIT AND ACUTE  
30 RESPIRATORY UNIT.

31 5. "DIRECT CARE REGISTERED NURSE" OR "NURSE" MEANS A REGISTERED NURSE  
32 WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 15 AND WHO HAS ACCEPTED A  
33 DIRECT, HANDS-ON PATIENT CARE ASSIGNMENT TO IMPLEMENT MEDICAL AND NURSING  
34 REGIMENS.

35 6. "HOSPITAL" INCLUDES A GENERAL HOSPITAL, A CRITICAL ACCESS HOSPITAL  
36 AND A SPECIAL HOSPITAL.

37 7. "HOSPITAL UNIT" MEANS AN INTENSIVE CARE UNIT, CRITICAL CARE UNIT,  
38 BURN UNIT, LABOR AND DELIVERY ROOM, ANTEPARTUM AND POSTPARTUM UNIT,  
39 MEDICAL-SURGICAL UNIT, NEWBORN NURSERY, POSTANESTHESIA SERVICE AREA,  
40 EMERGENCY DEPARTMENT, OPERATING ROOM, PEDIATRIC UNIT, STEP-DOWN AND  
41 INTERMEDIATE CARE UNIT, SPECIALTY CARE UNIT, TELEMETRY UNIT, GENERAL MEDICAL  
42 CARE UNIT, PSYCHIATRIC UNIT, REHABILITATION UNIT AND SKILLED NURSING FACILITY  
43 UNIT.

44 8. "MEDICAL-SURGICAL UNIT" MEANS A UNIT THAT IS ESTABLISHED TO  
45 SAFEGUARD AND PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS, INCLUDING ALL

1 COMORBIDITIES, RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY, REQUIRES  
2 CONTINUOUS CARE THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED  
3 NURSE, MONITORING, MULTIPLE ASSESSMENTS, SPECIALIZED INTERVENTIONS,  
4 EVALUATIONS AND EDUCATION AND TEACHING OF THE PATIENT, THE PATIENT'S FAMILY  
5 OR OTHER REPRESENTATIVES BY A COMPETENT AND EXPERIENCED DIRECT CARE  
6 REGISTERED NURSE. MEDICAL-SURGICAL UNIT INCLUDES UNITS IN WHICH PATIENTS  
7 REQUIRE LESS THAN INTENSIVE CARE OR STEP-DOWN CARE AND IN WHICH PATIENTS  
8 RECEIVE TWENTY-FOUR HOUR INPATIENT GENERAL MEDICAL CARE OR POSTSURGICAL CARE,  
9 OR BOTH, AND MAY INCLUDE UNITS OF MIXED PATIENT POPULATIONS OF DIVERSE  
10 DIAGNOSES AND DIVERSE AGE GROUPS, EXCLUDING PEDIATRIC PATIENTS.

11 9. "PATIENT ASSESSMENT" MEANS THE INTELLECTUALLY DISCIPLINED PROCESS  
12 OF ACTIVELY AND SKILLFULLY INTERPRETING, APPLYING, ANALYZING, SYNTHESIZING  
13 AND EVALUATING DATA OBTAINED THROUGH THE DIRECT CARE REGISTERED NURSE'S  
14 DIRECT OBSERVATION AND COMMUNICATION WITH OTHERS.

15 10. "PATIENT CLASSIFICATION SYSTEM" OR "SYSTEM" MEANS A PATIENT  
16 ACUITY-BASED STANDARDIZED SET OF CRITERIA THAT ARE BASED ON SCIENTIFIC DATA  
17 AND THAT ARE USED TO DETERMINE CARE REQUIREMENTS FOR AN INDIVIDUAL PATIENT  
18 AND TO DETERMINE THE ADDITIONAL NUMBER OF DIRECT CARE REGISTERED NURSES AND  
19 OTHER LICENSED AND UNLICENSED NURSING STAFF THE HOSPITAL MUST ASSIGN TO MEET  
20 THE INDIVIDUAL PATIENT NEEDS AT ALL TIMES.

21 11. "PROFESSIONAL JUDGMENT" MEANS THE INTELLECTUAL PROCESS THAT THE  
22 DIRECT CARE REGISTERED NURSE USES TO FORM AN OPINION AND TO REACH A CLINICAL  
23 DECISION, IN THE PATIENT'S BEST INTEREST, AND THAT IS BASED ON ANALYSIS OF  
24 DATA, INFORMATION AND SCIENTIFIC EVIDENCE.

25 12. "REHABILITATION UNIT" MEANS A FUNCTIONAL CLINICAL UNIT THAT  
26 PROVIDES REHABILITATION SERVICES THAT RESTORE AN ILL OR INJURED PATIENT TO  
27 THE HIGHEST LEVEL OF SELF-SUFFICIENCY OR GAINFUL EMPLOYMENT THE PATIENT IS  
28 CAPABLE OF IN THE SHORTEST POSSIBLE TIME, COMPATIBLE WITH THE PATIENT'S  
29 PHYSICAL, INTELLECTUAL AND EMOTIONAL OR PSYCHOLOGICAL CAPABILITIES AND IN  
30 ACCORD WITH PLANNED GOALS AND OBJECTIVES.

31 13. "SKILLED NURSING FACILITY UNIT" MEANS A FUNCTIONAL CLINICAL UNIT  
32 THAT PROVIDES SKILLED NURSING CARE AND SUPPORTIVE CARE TO PATIENTS WHOSE  
33 PRIMARY NEED IS FOR THE AVAILABILITY OF SKILLED NURSING CARE ON A LONG-TERM  
34 BASIS AND WHO ARE ADMITTED AFTER AT LEAST A FORTY-EIGHT HOUR PERIOD OF  
35 CONTINUOUS INPATIENT CARE AND THAT PROVIDES AT LEAST MEDICAL, NURSING,  
36 DIETARY AND PHARMACEUTICAL SERVICES AND AN ACTIVITY PROGRAM.

37 14. "SPECIALTY CARE UNIT" MEANS A UNIT THAT IS ESTABLISHED TO SAFEGUARD  
38 AND PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS, INCLUDING ALL COMORBIDITIES,  
39 RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY, REQUIRES CONTINUOUS CARE  
40 THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED NURSE, MONITORING,  
41 MULTIPLE ASSESSMENTS, SPECIALIZED INTERVENTIONS, EVALUATIONS, AND EDUCATION  
42 OR TEACHING OF THE PATIENT, THE PATIENT'S FAMILY OR OTHER REPRESENTATIVES BY  
43 A COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED NURSE, THAT PROVIDES  
44 INTENSITY OF CARE FOR A SPECIFIC MEDICAL CONDITION OR A SPECIFIC PATIENT  
45 POPULATION, THAT IS MORE COMPREHENSIVE FOR THE SPECIFIC CONDITION OR DISEASE

1 PROCESS THAN THAT REQUIRED FOR MEDICAL-SURGICAL UNITS AND THAT IS NOT  
2 OTHERWISE COVERED BY OTHER UNITS.

3 15. "STEP-DOWN AND INTERMEDIATE CARE UNIT" MEANS A UNIT THAT IS  
4 ESTABLISHED TO SAFEGUARD AND PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS,  
5 INCLUDING ALL COMORBIDITIES, RESTORATIVE MEASURES AND LEVEL OF NURSING  
6 INTENSITY, REQUIRES INTERMEDIATE INTENSIVE CARE THROUGH DIRECT OBSERVATION BY  
7 THE DIRECT CARE REGISTERED NURSE, MONITORING, MULTIPLE ASSESSMENTS,  
8 SPECIALIZED INTERVENTIONS, EVALUATIONS, AND EDUCATION OR TEACHING OF THE  
9 PATIENT, THE PATIENT'S FAMILY OR OTHER REPRESENTATIVES BY A COMPETENT AND  
10 EXPERIENCED DIRECT CARE REGISTERED NURSE, AND THAT PROVIDES CARE TO PATIENTS  
11 WITH MODERATE OR POTENTIALLY SEVERE PHYSIOLOGIC INSTABILITY THAT REQUIRES  
12 TECHNICAL SUPPORT BUT NOT NECESSARILY ARTIFICIAL LIFE SUPPORT. FOR THE  
13 PURPOSES OF THIS PARAGRAPH:

14 (a) "ARTIFICIAL LIFE SUPPORT" MEANS A SYSTEM THAT USES MEDICAL  
15 TECHNOLOGY TO AID, SUPPORT OR REPLACE A VITAL FUNCTION OF THE BODY THAT HAS  
16 BEEN SERIOUSLY DAMAGED.

17 (b) "TECHNICAL SUPPORT" MEANS SPECIALIZED EQUIPMENT OR DIRECT CARE, OR  
18 BOTH, INVASIVE MONITORING, TELEMETRY AND MECHANICAL VENTILATION USED FOR THE  
19 IMMEDIATE AMELIORATION OR REMEDIATION OF SEVERE PATHOLOGY FOR THOSE PATIENTS  
20 WHO REQUIRE LESS CARE THAN INTENSIVE CARE BUT MORE THAN THAT REQUIRED FROM  
21 MEDICAL-SURGICAL CARE.

22 16. "TELEMETRY UNIT" MEANS A UNIT THAT IS ESTABLISHED TO SAFEGUARD AND  
23 PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS, INCLUDING ALL COMORBIDITIES,  
24 RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY, REQUIRES INTERMEDIATE  
25 INTENSIVE CARE THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED  
26 NURSE, MONITORING, MULTIPLE ASSESSMENTS, SPECIALIZED INTERVENTIONS,  
27 EVALUATIONS AND EDUCATION OR TEACHING OF THE PATIENT, THE PATIENT'S FAMILY OR  
28 OTHER REPRESENTATIVES BY A COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED  
29 NURSE, AND THAT IS DESIGNATED FOR THE ELECTRONIC MONITORING, RECORDING,  
30 RETRIEVAL AND DISPLAY OF CARDIAC ELECTRICAL SIGNALS.

31 36-1302. Staffing ratios

32 A. A HOSPITAL MUST MAINTAIN THE FOLLOWING MINIMUM DIRECT CARE  
33 REGISTERED NURSE-TO-PATIENT STAFFING RATIOS AS FOLLOWS AT ALL TIMES:

34 1. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN AN INTENSIVE  
35 CARE UNIT IS 1:2.

36 2. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A CRITICAL  
37 CARE UNIT IS 1:2.

38 3. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A NEONATAL  
39 INTENSIVE CARE UNIT IS 1:2.

40 4. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A BURN UNIT  
41 IS 1:2.

42 5. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A STEP-DOWN  
43 AND INTERMEDIATE CARE UNIT IS 1:3.

- 1           6. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN THE  
2 POSTANESTHESIA RECOVERY UNIT OF THE ANESTHESIA SERVICE IS 1:2 REGARDLESS OF  
3 THE TYPE OF ANESTHESIA THE PATIENT RECEIVES.
- 4           7. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PATIENTS  
5 RECEIVING CONSCIOUS SEDATION IS 1:1.
- 6           8. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR THE EMERGENCY  
7 DEPARTMENT IS 1:4.
- 8           9. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR CRITICAL CARE  
9 PATIENTS IN THE EMERGENCY DEPARTMENT IS 1:2.
- 10          10. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN THE LABOR AND  
11 DELIVERY SUITE OF THE PRENATAL SERVICES IS 1:1 FOR ACTIVE LABOR PATIENTS AND  
12 PATIENTS WITH MEDICAL OR OBSTETRICAL COMPLICATIONS.
- 13          11. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IS 1:1 AT ALL  
14 TIMES FOR INITIATING EPIDURAL ANESTHESIA AND CIRCULATION FOR CESAREAN  
15 DELIVERY.
- 16          12. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PATIENTS IN  
17 IMMEDIATE POSTPARTUM IS 1:2.
- 18          13. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR ANTEPARTUM  
19 PATIENTS WHO ARE NOT IN ACTIVE LABOR IS 1:3.
- 20          14. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PATIENTS IN A  
21 POSTPARTUM AREA OF THE PRENATAL SERVICE IS ONE NURSE TO THREE MOTHER-BABY  
22 COUPLETS. FOR MULTIPLE BIRTHS, THE TOTAL NUMBER OF MOTHER AND HER INFANTS  
23 ASSIGNED TO A SINGLE DIRECT CARE REGISTERED NURSE SHALL NOT EXCEED SIX.
- 24          15. FOR POSTPARTUM AREAS IN WHICH THE DIRECT CARE REGISTERED NURSE'S  
25 ASSIGNMENT CONSISTS OF MOTHERS ONLY, THE DIRECT CARE REGISTERED  
26 NURSE-TO-PATIENT RATIO IS 1:4.
- 27          16. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR POSTPARTUM  
28 WOMEN OR POSTSURGICAL GYNECOLOGICAL PATIENTS ONLY IS 1:4.
- 29          17. THE WELL BABY NURSERY DIRECT CARE REGISTERED NURSE RATIO IS 1:5.
- 30          18. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR UNSTABLE  
31 NEWBORNS AND THOSE IN THE RESUSCITATION PERIOD AS ASSESSED BY THE DIRECT CARE  
32 REGISTERED NURSE IS 1:1.
- 33          19. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR RECENTLY BORN  
34 INFANTS IS 1:4.
- 35          20. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PEDIATRICS IS  
36 1:3.
- 37          21. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN TELEMETRY IS  
38 1:3.
- 39          22. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN MEDICAL  
40 SURGICAL IS 1:4.
- 41          23. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PRESURGICAL  
42 ADMISSIONS UNITS OR AMBULATORY SURGICAL UNITS IS 1:4.
- 43          24. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN OTHER  
44 SPECIALTY UNITS IS 1:4.

1           25. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN PSYCHIATRIC  
2 UNITS IS 1:4.

3           26. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN A  
4 REHABILITATION UNIT OR A SKILLED NURSING FACILITY IS 1:5.

5           B. AT A MINIMUM, AN OPERATING ROOM MUST HAVE AT LEAST ONE DIRECT CARE  
6 REGISTERED NURSE ASSIGNED TO THE DUTIES OF THE CIRCULATING REGISTERED NURSE  
7 AND A MINIMUM OF ONE ADDITIONAL PERSON AS A SCRUB ASSISTANT FOR EACH PATIENT.

8           C. ONLY DIRECT CARE REGISTERED NURSES SHALL BE ASSIGNED TO CRITICAL  
9 TRAUMA PATIENTS IN THE EMERGENCY DEPARTMENT, AND A MINIMUM DIRECT CARE  
10 REGISTERED NURSE-TO-CRITICAL TRAUMA PATIENT RATIO OF 1:1 MUST BE MAINTAINED  
11 AT ALL TIMES.

12           D. TRIAGE, RADIO OR SPECIALTY-FLIGHT REGISTERED NURSES DO NOT COUNT IN  
13 THE CALCULATION OF THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN AN  
14 EMERGENCY DEPARTMENT.

15           36-1303. Patient classification system; review committees

16           A. IN ADDITION TO THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS  
17 PRESCRIBED IN SECTION 36-1302, EACH HOSPITAL MUST IMPLEMENT A PATIENT  
18 CLASSIFICATION SYSTEM TO DETERMINE THE PATIENT CARE NEEDS OF INDIVIDUAL  
19 PATIENTS. THE HOSPITAL MUST ASSIGN ADDITIONAL DIRECT CARE REGISTERED NURSES  
20 AND OTHER LICENSED OR UNLICENSED STAFF AS INDICATED BY THE PATIENT  
21 CLASSIFICATION SYSTEM. THE PATIENT CLASSIFICATION SYSTEM MUST REFLECT THE  
22 ASSESSMENT MADE BY THE ASSIGNED DIRECT CARE REGISTERED NURSE OF PATIENT  
23 NURSING CARE REQUIREMENTS AND PROVIDE FOR SHIFT-BY-SHIFT STAFFING BASED ON  
24 THOSE REQUIREMENTS. THE ASSESSMENT MUST INCLUDE THE SEVERITY OF THE  
25 PATIENT'S ILLNESS, THE NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY AND THE  
26 INTENSITY OF REQUIRED NURSING INTERVENTIONS THAT IS CONSISTENT WITH  
27 PROFESSIONAL STANDARDS, THE ABILITY FOR SELF-CARE, INCLUDING MOTOR, SENSORY  
28 AND COGNITIVE DEFICITS, THE NEED FOR ADVOCACY INTERVENTION, THE LICENSURE OF  
29 THE PERSONNEL REQUIRED FOR CARE, THE PATIENT CARE DELIVERY SYSTEM, THE  
30 HOSPITAL UNIT'S GEOGRAPHIC LAYOUT, GENERALLY ACCEPTED STANDARDS OF NURSING  
31 PRACTICE AND ELEMENTS THAT REFLECT THE UNIQUE NATURE OF THE ACUTE CARE  
32 HOSPITAL'S PATIENT POPULATION.

33           B. THE RATIOS DETERMINED PURSUANT TO SECTION 36-1302 ARE THE MINIMUM  
34 NUMBER OF DIRECT CARE REGISTERED NURSES WHO MUST BE ASSIGNED TO DIRECT  
35 PATIENT CARE. THE HOSPITAL MUST ASSIGN ADDITIONAL DIRECT CARE REGISTERED  
36 NURSING STAFF IN EXCESS OF THESE PRESCRIBED RATIOS TO DIRECT PATIENT CARE  
37 ACCORDING TO THE HOSPITAL'S IMPLEMENTATION OF A VALID PATIENT CLASSIFICATION  
38 SYSTEM FOR DETERMINING NURSING CARE REQUIREMENTS.

39           C. THE RELIABILITY OF THE PATIENT CLASSIFICATION SYSTEM FOR VALIDATING  
40 STAFFING REQUIREMENTS MUST BE REVIEWED AT LEAST ANNUALLY BY A COMMITTEE  
41 APPOINTED BY THE CHIEF NURSING OFFICER TO DETERMINE WHETHER OR NOT THE SYSTEM  
42 ACCURATELY MEASURES INDIVIDUAL PATIENT CARE NEEDS. AT LEAST HALF OF THE  
43 MEMBERS OF THIS COMMITTEE MUST BE UNIT-SPECIFIC COMPETENT DIRECT CARE  
44 REGISTERED NURSES WHO PROVIDE DIRECT PATIENT CARE. IF DIRECT CARE REGISTERED  
45 NURSES ARE REPRESENTED UNDER A COLLECTIVE BARGAINING AGREEMENT, THE

1 APPOINTMENT MUST BE MADE BY THE AUTHORIZED COLLECTIVE BARGAINING AGENT. IN  
2 CASE OF A DISPUTE, THE DIRECT CARE REGISTERED NURSE ASSESSMENT PREVAILS.

3 D. IF THE REVIEW CONDUCTED PURSUANT TO SUBSECTION C OF THIS SECTION  
4 REVEALS THAT ADJUSTMENTS ARE NECESSARY TO ASSURE ACCURACY IN MEASURING  
5 PATIENT CARE NEEDS, THESE ADJUSTMENTS MUST BE IMPLEMENTED WITHIN THIRTY DAYS  
6 AFTER THAT DETERMINATION.

7 36-1304. Minimum staffing requirements; prohibitions

8 A. EACH HOSPITAL MUST PROVIDE MINIMUM STAFFING BY DIRECT CARE  
9 REGISTERED NURSES ACCORDING TO THE GENERAL REQUIREMENTS OF THIS SECTION AND  
10 THE CLINICAL UNIT DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS PRESCRIBED  
11 PURSUANT TO SECTION 36-1302. STAFFING FOR PATIENT CARE TASKS NOT REQUIRING A  
12 DIRECT CARE REGISTERED NURSE IS NOT INCLUDED IN THESE RATIOS AND MUST BE  
13 DETERMINED PURSUANT TO THE PATIENT CLASSIFICATION SYSTEM PRESCRIBED PURSUANT  
14 TO SECTION 36-1303.

15 B. A HOSPITAL SHALL NOT ASSIGN A DIRECT CARE REGISTERED NURSE TO A  
16 NURSING UNIT OR CLINICAL AREA UNLESS THAT HOSPITAL AND THE DIRECT CARE  
17 REGISTERED NURSE DETERMINE THAT THE NURSE HAS DEMONSTRATED CURRENT COMPETENCE  
18 IN PROVIDING CARE IN THAT AREA AND HAS ALSO RECEIVED AND COMPLETED  
19 ORIENTATION TO THAT HOSPITAL'S CLINICAL AREA SUFFICIENT TO PROVIDE SAFE,  
20 THERAPEUTIC AND COMPETENT CARE TO PATIENTS IN THAT AREA. THE POLICIES AND  
21 PROCEDURES OF THE HOSPITAL MUST CONTAIN THE HOSPITAL'S CRITERIA FOR MAKING  
22 THIS DETERMINATION.

23 C. DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS REPRESENT THE  
24 MAXIMUM NUMBER OF PATIENTS THAT CAN BE ASSIGNED TO ONE DIRECT CARE REGISTERED  
25 NURSE AT ALL TIMES. FOR THE PURPOSES OF THIS SUBSECTION, "ASSIGNED" MEANS  
26 THAT THE DIRECT CARE REGISTERED NURSE IS RESPONSIBLE FOR PROVIDING CARE TO A  
27 PARTICULAR PATIENT WITHIN THE NURSE'S VALIDATED COMPETENCY.

28 D. AVERAGING OF THE NUMBER OF PATIENTS AND THE TOTAL NUMBER OF DIRECT  
29 CARE REGISTERED NURSES ON THE UNIT DURING ANY ONE SHIFT OR OVER ANY PERIOD OF  
30 TIME IS PROHIBITED.

31 E. ONLY DIRECT CARE REGISTERED NURSES WHO PROVIDE DIRECT PATIENT CARE  
32 SHALL BE INCLUDED IN THE RATIOS. NURSE ADMINISTRATORS, NURSE SUPERVISORS,  
33 NURSE MANAGERS, CHARGE NURSES AND CASE MANAGERS SHALL NOT BE INCLUDED IN THE  
34 CALCULATION OF THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO. ONLY  
35 DIRECT CARE REGISTERED NURSES SHALL RELIEVE OTHER DIRECT CARE REGISTERED  
36 NURSES DURING BREAKS, MEALS AND OTHER ROUTINE, EXPECTED ABSENCES FROM THE  
37 UNIT.

38 36-1305. Care units; identification; requirements

39 A. IDENTIFYING A UNIT BY A NAME OR TERM OTHER THAN THOSE USED PURSUANT  
40 TO SECTION 36-1302 DOES NOT AFFECT THE REQUIREMENT TO STAFF AT THE DIRECT  
41 CARE REGISTERED NURSE-TO-PATIENT RATIOS IDENTIFIED FOR THE LEVEL OF INTENSITY  
42 OR TYPE OF CARE PRESCRIBED IN SECTION 36-1304.

43 B. PATIENTS SHALL BE CARED FOR ONLY ON UNITS WHERE THE LEVEL OF  
44 INTENSITY, TYPE OF CARE AND DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS  
45 MEET THE INDIVIDUAL REQUIREMENTS AND NEEDS OF EACH PATIENT.

- 1           36-1306. Prohibited activities
- 2           A. A HOSPITAL SHALL NOT DIRECTLY ASSIGN ANY UNLICENSED PERSONNEL TO
- 3 PERFORM DIRECT CARE REGISTERED NURSE FUNCTIONS INSTEAD OF CARE DELIVERED BY A
- 4 LICENSED REGISTERED NURSE AND SHALL NOT ASSIGN UNLICENSED PERSONNEL TO
- 5 PERFORM DIRECT CARE REGISTERED NURSE FUNCTIONS UNDER THE SUPERVISION OF A
- 6 DIRECT CARE REGISTERED NURSE.
- 7           B. UNLICENSED PERSONNEL SHALL NOT PERFORM TASKS THAT REQUIRE THE
- 8 CLINICAL ASSESSMENT, JUDGMENT AND SKILL OF A LICENSED REGISTERED NURSE,
- 9 INCLUDING THE FOLLOWING:
- 10           1. NURSING ACTIVITIES THAT REQUIRE NURSING ASSESSMENT AND JUDGMENT
- 11 DURING IMPLEMENTATION.
- 12           2. PHYSICAL, PSYCHOLOGICAL AND SOCIAL ASSESSMENTS THAT REQUIRE NURSING
- 13 JUDGMENT, INTERVENTION, REFERRAL OR FOLLOW-UP.
- 14           3. FORMULATION OF A PLAN OF NURSING CARE.
- 15           4. EVALUATION OF THE PATIENT'S RESPONSE TO THE CARE PROVIDED.
- 16           5. ADMINISTRATION OF MEDICATIONS.
- 17           C. A HOSPITAL MAY NOT IMPOSE MANDATORY OVERTIME REQUIREMENTS TO MEET
- 18 THE STAFFING RATIOS PRESCRIBED PURSUANT TO SECTION 36-1302.
- 19           36-1307. Hospital nursing practice standards
- 20           A. A DIRECT CARE REGISTERED NURSE WHO IS EMPLOYED IN A HOSPITAL MUST:
- 21           1. PROVIDE SAFE, THERAPEUTIC AND COMPETENT NURSING CARE TO ASSIGNED
- 22 PATIENTS.
- 23           2. ASSESS EACH MEDICAL ORDER, AND BEFORE ACTING ON THE ORDER,
- 24 DETERMINE IF THE ORDER IS IN THE BEST INTEREST OF THE PATIENT AND IF IT WAS
- 25 INITIATED BY A PERSON LEGALLY AUTHORIZED TO INITIATE SUCH AN ORDER. A DIRECT
- 26 CARE REGISTERED NURSE WHO REFUSES TO IMPLEMENT AN ORDER THAT THE NURSE
- 27 DETERMINES IS NOT IN THE PATIENT'S BEST INTEREST IS AN EXERCISE OF THE DIRECT
- 28 CARE REGISTERED NURSE DUTY AND RIGHT AS A PATIENT ADVOCATE.
- 29           3. PERFORM CONTINUOUS AND ONGOING PATIENT ASSESSMENTS OF THE PATIENT'S
- 30 CONDITION BASED ON THE INDEPENDENT PROFESSIONAL JUDGMENT OF THE DIRECT CARE
- 31 REGISTERED NURSE. PATIENT ASSESSMENT REQUIRES DIRECT OBSERVATION BY THE
- 32 DIRECT CARE REGISTERED NURSE OF THE PATIENT'S SIGNS AND SYMPTOMS OF ILLNESS,
- 33 REACTION TO TREATMENT, BEHAVIOR AND PHYSICAL CONDITION, AND INTERPRETATION OF
- 34 INFORMATION OBTAINED FROM THE PATIENT AND OTHERS, INCLUDING OTHER CAREGIVERS
- 35 ON THE HEALTH TEAM. ONLY A DIRECT CARE REGISTERED NURSE SHALL PERFORM
- 36 PATIENT ASSESSMENTS. LICENSED VOCATIONAL NURSES MAY ASSIST DIRECT CARE
- 37 REGISTERED NURSES IN DATA COLLECTION. FOR THE PURPOSES OF THIS PARAGRAPH,
- 38 "ASSESSMENT" MEANS THE COLLECTION OF DATA BY THE DIRECT CARE REGISTERED NURSE
- 39 AND THE ANALYSIS, SYNTHESIS AND EVALUATION OF THAT DATA.
- 40           4. PLAN, IMPLEMENT AND EVALUATE THE NURSING CARE PROVIDED TO EACH
- 41 PATIENT. THE PLANNING AND DELIVERY OF PATIENT CARE MUST REFLECT ALL ELEMENTS
- 42 OF THE NURSING PROCESS, INCLUDING ASSESSMENT, NURSING DIAGNOSIS, PLANNING,
- 43 INTERVENTION, EVALUATION AND, AS CIRCUMSTANCES REQUIRE, PATIENT ADVOCACY, AND
- 44 MUST BE INITIATED BY A DIRECT CARE REGISTERED NURSE AT THE TIME OF ADMISSION.

1 B. BEFORE ACCEPTING A PATIENT ASSIGNMENT, A DIRECT CARE REGISTERED  
2 NURSE MUST HAVE THE NECESSARY KNOWLEDGE, JUDGMENT, SKILLS AND ABILITY TO  
3 PROVIDE THE REQUIRED CARE. IT IS THE RESPONSIBILITY OF THE DIRECT CARE  
4 REGISTERED NURSE TO DETERMINE IF THE NURSE IS CLINICALLY COMPETENT TO PERFORM  
5 THE REQUIRED NURSING CARE IN A PARTICULAR CLINICAL UNIT AND WITH A PARTICULAR  
6 DIAGNOSIS, CONDITION, PROGNOSIS OR OTHER DETERMINATIVE CHARACTERISTICS OF  
7 NURSING CARE. IF THE DIRECT CARE REGISTERED NURSE IS NOT CLINICALLY  
8 COMPETENT TO PERFORM THE CARE REQUIRED, THE NURSE SHALL NOT ACCEPT THE  
9 PATIENT CARE ASSIGNMENT. THE REFUSAL TO ACCEPT A PATIENT CARE ASSIGNMENT IS  
10 AN EXERCISE OF THE DIRECT CARE REGISTERED NURSE DUTY AND RIGHT OF PATIENT  
11 ADVOCACY.

12 36-1308. Consumer information; toll-free telephone number

13 A. A HOSPITAL THAT IS SUBJECT TO THIS ARTICLE MUST POST IN A PLACE  
14 THAT IS EASILY VISIBLE TO THE PUBLIC THE FOLLOWING FOR EACH SHIFT OF EACH  
15 DAY:

16 1. THE RATIO OF DIRECT CARE REGISTERED NURSING STAFF TO PATIENTS ON  
17 EACH UNIT.

18 2. THE STAFFING REQUIREMENTS AS DETERMINED BY THE PATIENT  
19 CLASSIFICATION SYSTEM FOR EACH UNIT.

20 3. THE ACTUAL STAFF AND STAFF RATIO PROVIDED.

21 4. THE VARIANCE BETWEEN THE REQUIRED AND THE ACTUAL STAFFING PATTERNS.

22 B. A HOSPITAL MUST PROVIDE EACH PATIENT WHO IS ADMITTED TO THE  
23 HOSPITAL FOR INPATIENT CARE WITH THE TOLL-FREE TELEPHONE NUMBER PRESCRIBED BY  
24 THE DEPARTMENT OF HEALTH SERVICES TO REPORT INADEQUATE STAFFING OR CARE.

25 36-1309. Disciplinary action; civil penalty

26 A HOSPITAL THAT VIOLATES THIS ARTICLE IS SUBJECT TO SUSPENSION OR  
27 REVOCATION OF ITS LICENSE TO OPERATE AND IS SUBJECT TO A CIVIL PENALTY OF NOT  
28 MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS ARTICLE AND  
29 AN ADDITIONAL CIVIL PENALTY OF TEN THOUSAND DOLLARS PER NURSING UNIT SHIFT  
30 UNTIL THE VIOLATION IS CORRECTED.

31 ARTICLE 2. PATIENT SAFETY AND ADVOCACY

32 36-1321. Nurses; patient advocacy; duties and rights;  
33 definition

34 A DIRECT CARE REGISTERED NURSE HAS THE PROFESSIONAL OBLIGATION AND  
35 THEREFORE THE RIGHT TO ACT AS THE PATIENT'S ADVOCATE, AS CIRCUMSTANCES  
36 REQUIRE, BY INITIATING ACTION TO IMPROVE HEALTH CARE OR TO CHANGE DECISIONS  
37 OR ACTIVITIES THAT IN THE PROFESSIONAL JUDGMENT OF THE DIRECT CARE REGISTERED  
38 NURSE ARE AGAINST THE INTERESTS OR WISHES OF THE PATIENT, OR BY GIVING THE  
39 PATIENT THE OPPORTUNITY TO MAKE INFORMED DECISIONS ABOUT HEALTH CARE BEFORE  
40 IT IS PROVIDED.

41 36-1322. Duty to act; protection against retaliation;  
42 definition

43 A. A HOSPITAL SHALL NOT DISCHARGE FROM DUTY OR OTHERWISE RETALIATE  
44 AGAINST A DIRECT CARE REGISTERED NURSE WHO IS RESPONSIBLE FOR PATIENT CARE

1 AND WHO REPORTS UNSAFE PRACTICES OR VIOLATIONS OF HOSPITAL POLICIES OR  
2 APPLICABLE LAWS.

3 B. ALL DIRECT CARE REGISTERED NURSES AND OTHER HEALTH PROFESSIONALS  
4 WHO ARE RESPONSIBLE FOR PATIENT CARE HAVE THE RIGHT OF FREE SPEECH AND ARE  
5 PROTECTED IN THE EXERCISE OF THAT RIGHT AS PROVIDED IN THIS ARTICLE, BOTH  
6 DURING WORKING HOURS AND DURING OFF-DUTY HOURS.

7 C. THE FREE SPEECH PROTECTED BY THIS SECTION INCLUDES ANY TYPE OF  
8 SPOKEN, GESTURED, WRITTEN, PRINTED OR ELECTRONICALLY COMMUNICATED EXPRESSION  
9 CONCERNING ANY MATTER RELATED TO OR AFFECTING SAFE, THERAPEUTIC AND COMPETENT  
10 DIRECT NURSING CARE BY DIRECT CARE REGISTERED NURSES AND OTHER HEALTH CARE  
11 PROFESSIONALS GENERALLY WITHIN THE HEALTH CARE INDUSTRY.

12 D. THE CONTENT OF SPEECH PROTECTED BY THIS SECTION INCLUDES:

- 13 1. THE FACTS AND CIRCUMSTANCES OF PARTICULAR EVENTS.
- 14 2. PATIENT CARE PRACTICES.
- 15 3. INSTITUTIONAL ACTIONS, POLICIES AND CONDITIONS THAT MAY FACILITATE  
16 OR IMPEDE COMPETENT AND SAFE NURSING PRACTICE AND PATIENT CARE.
- 17 4. ADVERSE PATIENT OUTCOMES OR INCIDENTS.
- 18 5. SENTINEL AND REPORTABLE EVENTS.
- 19 6. ARGUMENTS IN SUPPORT OF OR AGAINST HOSPITAL POLICIES OR PRACTICES  
20 RELATING TO THE DELIVERY OF NURSING CARE BY A DIRECT CARE REGISTERED NURSE  
21 AND OTHER HEALTH PROFESSIONAL.

22 E. PROTECTED SPEECH UNDER THIS SECTION INCLUDES THE INTERNAL, EXTERNAL  
23 AND PUBLIC REPORTING OF ACTIONS, CONDUCT, EVENTS, PRACTICES AND OTHER MATTERS  
24 THAT ARE BELIEVED TO:

- 25 1. CONSTITUTE A VIOLATION OF FEDERAL, STATE OR LOCAL LAWS.
- 26 2. CONSTITUTE A BREACH OF APPLICABLE CODES OF PROFESSIONAL ETHICAL  
27 OBLIGATIONS APPLICABLE TO DIRECT CARE REGISTERED NURSES AND OTHER HEALTH  
28 PROFESSIONALS.
- 29 3. CONCERN MATTERS THAT THE REPORTING DIRECT CARE REGISTERED NURSE  
30 BELIEVES ARE APPROPRIATE OR REQUIRED TO:

31 (a) FURTHER AND SUPPORT THE DIRECT CARE REGISTERED NURSE'S EXERCISE OF  
32 PATIENT ADVOCACY DUTIES IN ORDER TO IMPROVE HEALTH CARE OR TO CHANGE  
33 DECISIONS OR ACTIVITIES THAT IN THE DIRECT CARE REGISTERED NURSE'S  
34 PROFESSIONAL JUDGMENT ARE AGAINST THE INTERESTS OR WISHES OF A PATIENT.

35 (b) ENSURE THAT A PATIENT IS AFFORDED A MEANINGFUL OPPORTUNITY TO MAKE  
36 INFORMED DECISIONS ABOUT HEALTH CARE BEFORE IT IS PROVIDED.

- 37 4. CONCERN MATTERS AS DESCRIBED IN PARAGRAPH 3 OF THIS SUBSECTION MADE  
38 IN AID AND SUPPORT OF THE EXERCISE OF PATIENT ADVOCACY DUTIES OF DIRECT CARE  
39 REGISTERED NURSE COLLEAGUES.

40 F. THIS SECTION DOES NOT AUTHORIZE DISCLOSURE OF PRIVATE AND  
41 CONFIDENTIAL PATIENT INFORMATION UNLESS DISCLOSURE IS:

- 42 1. REQUIRED BY LAW.
- 43 2. COMPELLED BY PROPER LEGAL PROCESS.
- 44 3. CONSENTED TO BY THE PATIENT.

1 4. PROVIDED IN CONFIDENCE TO REGULATORY OR ACCREDITATION AGENCIES OR  
2 TO OTHER GOVERNMENT ENTITIES FOR INVESTIGATORY PURPOSES.

3 5. PURSUANT TO FORMAL OR INFORMAL COMPLAINTS OF UNLAWFUL OR IMPROPER  
4 PRACTICES FOR PURPOSES OF ACHIEVING CORRECTIVE AND REMEDIAL ACTION.

5 G. ENGAGING IN FREE SPEECH ACTIVITY AS DESCRIBED IN THIS SECTION  
6 CONSTITUTES AN EXERCISE OF THE DIRECT CARE REGISTERED NURSE DUTY AND RIGHT OF  
7 PATIENT ADVOCACY. THE SUBJECT MATTER OF FREE SPEECH ACTIVITY AS DESCRIBED IN  
8 THIS SECTION IS PRESUMED TO BE A MATTER OF PUBLIC CONCERN AND THE DISCLOSURES  
9 PROTECTED UNDER THIS SECTION ARE PRESUMED TO BE IN THE PUBLIC INTEREST.

10 H. FOR THE PURPOSES OF THIS ARTICLE, "HEALTH PROFESSIONAL" HAS THE  
11 SAME MEANING PRESCRIBED IN SECTION 32-3201.

12 36-1323. Ethical and fiduciary duties

13 A. A DIRECT CARE REGISTERED NURSE IS IN A FIDUCIARY RELATION TO AN  
14 ASSIGNED PATIENT AS TO MATTERS WITHIN THE SCOPE OF PRACTICE AND PROFESSIONAL  
15 RESPONSIBILITY OF THE NURSE TO PROVIDE SAFE, THERAPEUTIC AND COMPETENT NURSING  
16 CARE IN THE INTERESTS OF THE PATIENT. AS TO THESE MATTERS, THE DIRECT CARE  
17 REGISTERED NURSE RESPONSIBLE FOR A PATIENT SHALL PERFORM THE ESSENTIAL  
18 FUNCTIONS OF A DIRECT CARE REGISTERED NURSE EXCLUSIVELY IN THE INTERESTS OF  
19 THE PATIENT AND SHALL NOT BE INFLUENCED BY THE INTERESTS OF ANY THIRD PARTY OR  
20 THE DIRECTIVES OF ANY SUCH INTERESTED THIRD PARTY OR BY MOTIVES OTHER THAN THE  
21 ACCOMPLISHMENT OF THE NURSE'S PROFESSIONAL RESPONSIBILITY TO PROVIDE SAFE AND  
22 COMPETENT NURSING CARE IN THE INTERESTS OF AND FOR THE BENEFIT OF THE PATIENT.

23 B. A DIRECT CARE REGISTERED NURSE SHALL NOT BE INFLUENCED BY THE  
24 NURSE'S OWN PERSONAL INTERESTS OR BY THE INTERESTS OR DEMANDS OF A THIRD PARTY  
25 THAT CONFLICT WITH THE INTERESTS OF AN ASSIGNED PATIENT IN PERFORMING THE  
26 ESSENTIAL REGISTERED NURSING FUNCTIONS. THE REFUSAL BY A DIRECT CARE  
27 REGISTERED NURSE TO ENGAGE IN A CONFLICT OF INTEREST WITH RESPECT TO NURSING  
28 CARE FOR WHICH THE NURSE IS RESPONSIBLE CONSTITUTES AN EXERCISE OF THE  
29 REGISTERED NURSE DUTY AND RIGHT OF PATIENT ADVOCACY.

30 36-1324. Protected rights

31 A. A PERSON HAS THE RIGHT TO:

32 1. OPPOSE POLICIES, PRACTICES OR ACTIONS OF ANY HOSPITAL OR OTHER  
33 HEALTH CARE INSTITUTION THAT ARE ALLEGED TO VIOLATE, BREACH OR FAIL TO COMPLY  
34 WITH THIS ARTICLE.

35 2. COOPERATE, PROVIDE EVIDENCE, TESTIFY OR OTHERWISE SUPPORT OR  
36 PARTICIPATE IN ANY INVESTIGATION OR COMPLAINT PROCEEDING BROUGHT PURSUANT TO  
37 THIS ARTICLE.

38 B. BY VIRTUE OF THEIR PROFESSIONAL LICENSE AND ETHICAL OBLIGATIONS,  
39 DIRECT CARE REGISTERED NURSES HAVE A DUTY AND RIGHT TO ACT AND PROVIDE CARE  
40 EXCLUSIVELY IN THE INTERESTS OF PATIENTS AND TO ACT AS THE PATIENT'S  
41 ADVOCATE, AS CIRCUMSTANCES REQUIRE, BY INITIATING ACTION TO IMPROVE HEALTH  
42 CARE OR TO CHANGE DECISIONS OR ACTIVITIES THAT IN THE PROFESSIONAL JUDGMENT  
43 OF THE DIRECT CARE REGISTERED NURSES ARE AGAINST THE INTERESTS OR WISHES OF  
44 ASSIGNED PATIENTS, OR BY GIVING THE PATIENT THE OPPORTUNITY TO MAKE INFORMED  
45 DECISIONS ABOUT HEALTH CARE BEFORE IT IS PROVIDED.

1 C. A PATIENT OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION AGGRIEVED  
2 BY THAT HOSPITAL'S OR INSTITUTION'S INTERFERENCE WITH THE FULL AND FREE  
3 EXERCISE OF PATIENT ADVOCACY DUTIES BY A DIRECT CARE REGISTERED NURSE MAY  
4 MAKE OR FILE A COMPLAINT AND MAY COOPERATE, PROVIDE EVIDENCE, TESTIFY OR  
5 OTHERWISE SUPPORT OR PARTICIPATE IN ANY INVESTIGATION OR COMPLAINT PROCEEDING  
6 BROUGHT PURSUANT TO THIS ARTICLE. A PATIENT IS AGGRIEVED IF THE PATIENT'S  
7 HEALTH OR SAFETY WAS JEOPARDIZED OR THE PATIENT WAS EXPOSED TO ADDITIONAL  
8 RISK OF INJURY, DISEASE, PAIN OR SUFFERING AS A CONSEQUENCE OF CONDITIONS OR  
9 CIRCUMSTANCES CAUSED IN WHOLE OR IN PART BY THE HOSPITAL'S OR INSTITUTION'S  
10 INTERFERENCE WITH PATIENT ADVOCACY RIGHTS OF A DIRECT CARE REGISTERED NURSE  
11 HEALTH PROFESSIONAL. ACTUAL PHYSICAL INJURY, DISEASE, PAIN OR SUFFERING IS  
12 NOT REQUIRED FOR A PATIENT TO HAVE STANDING TO FILE A COMPLAINT AND OBTAIN  
13 APPROPRIATE REMEDIES UNDER THIS ARTICLE.

14 D. A DIRECT CARE REGISTERED NURSE OF A HOSPITAL OR OTHER HEALTH CARE  
15 INSTITUTION AGGRIEVED BY THAT HOSPITAL'S OR INSTITUTION'S INTERFERENCE WITH  
16 THE FULL AND FREE EXERCISE OF PATIENT ADVOCACY DUTIES MAY MAKE OR FILE A  
17 COMPLAINT AND MAY COOPERATE, PROVIDE EVIDENCE, TESTIFY OR OTHERWISE SUPPORT  
18 OR PARTICIPATE IN ANY INVESTIGATION OR COMPLAINT PROCEEDING PURSUANT TO THIS  
19 ARTICLE.

20 36-1325. Prohibited acts

21 A. IT IS UNLAWFUL FOR ANY HOSPITAL OR OTHER HEALTH CARE INSTITUTION  
22 TO:

23 1. INTERFERE WITH, RESTRAIN, COERCE, INTIMIDATE OR DENY THE EXERCISE  
24 OF OR THE ATTEMPT TO EXERCISE BY ANY PERSON OF ANY RIGHT TO ACT PURSUANT TO  
25 THIS ARTICLE.

26 2. DISCRIMINATE OR RETALIATE AGAINST ANY PERSON FOR OPPOSING ANY  
27 POLICY, PRACTICE OR ACTION OF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION  
28 THAT IS ALLEGED TO VIOLATE, BREACH OR FAIL TO COMPLY WITH THIS ARTICLE.

29 3. MAKE, ADOPT OR ENFORCE ANY POLICY OR PRACTICE THAT DIRECTLY OR  
30 INDIRECTLY PROHIBITS, IMPEDES, DISCOURAGES, INTIMIDATES, COERCES OR INDUCES  
31 IN ANY MANNER A DIRECT CARE REGISTERED NURSE OR OTHER HEALTH PROFESSIONAL  
32 FROM ENGAGING IN FREE SPEECH ACTIVITIES OR DISCLOSING INFORMATION AS  
33 PRESCRIBED IN THIS ARTICLE.

34 4. MAKE, ADOPT OR ENFORCE ANY POLICY OR PRACTICE THAT DIRECTLY OR  
35 INDIRECTLY AUTHORIZES, SANCTIONS, PERMITS, EXCUSES OR ENCOURAGES ANY OTHER  
36 PERSON TO ENGAGE IN CONDUCT THAT IS LIKELY TO PROHIBIT, IMPEDE, DISCOURAGE,  
37 INTIMIDATE, COERCE OR INDUCE IN ANY MANNER A DIRECT CARE REGISTERED NURSE OR  
38 OTHER HEALTH PROFESSIONAL FROM ENGAGING IN FREE SPEECH ACTIVITIES OR  
39 DISCLOSING INFORMATION AS PROVIDED IN THIS ARTICLE.

40 B. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION SHALL NOT USE  
41 TECHNOLOGY THAT:

42 1. LIMITS THE DIRECT CARE REGISTERED NURSE IN PERFORMING FUNCTIONS  
43 THAT ARE PART OF THE NURSING PROCESS, INCLUDING FULL EXERCISE OF INDEPENDENT  
44 CLINICAL JUDGMENT IN ASSESSMENT, PLANNING, IMPLEMENTATION AND EVALUATION OF

1 CARE, OR FROM ACTING AS PATIENT ADVOCATE IN THE EXCLUSIVE INTEREST OF THE  
2 PATIENT.  
3 2. IS SKILL DEGRADING.  
4 3. INTERFERES WITH THE DIRECT CARE REGISTERED NURSE WHO PROVIDES  
5 INDIVIDUALIZED PATIENT CARE.  
6 4. OVERRIDES THE DIRECT CARE REGISTERED NURSE'S INDEPENDENT  
7 PROFESSIONAL JUDGMENT.  
8 5. INTERFERES WITH THE DIRECT CARE REGISTERED NURSE'S RIGHT TO  
9 ADVOCATE IN THE EXCLUSIVE INTEREST OF THE PATIENT.  
10 C. THE PROHIBITION TO INTERFERE WITH A DIRECT CARE REGISTERED NURSE'S  
11 RIGHTS AND DUTIES PRESCRIBED IN THIS ARTICLE APPLIES TO THE FOLLOWING:  
12 1. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER.  
13 2. ALL MANAGEMENT PERSONNEL EMPLOYED BY A HOSPITAL OR OTHER HEALTH  
14 CARE INSTITUTION.  
15 3. ALL PERSONNEL WITH MANAGEMENT OR SUPERVISORY AUTHORITY EMPLOYED BY  
16 A HOSPITAL OR OTHER HEALTH CARE INSTITUTION, INCLUDING THE REGISTERED NURSE  
17 ADMINISTRATOR, REGISTERED NURSE MANAGER AND REGISTERED NURSE SUPERVISOR.  
18 4. ALL MEDICAL PERSONNEL WHO TREAT PATIENTS ADMITTED TO HOSPITAL  
19 NURSING UNITS, WHETHER EMPLOYED BY THE HOSPITAL OR OTHER HEALTH CARE  
20 INSTITUTION.  
21 5. ANY PERSON WHO IS PRIVILEGED TO ADMIT PATIENTS, THROUGH AN  
22 AFFILIATED MEDICAL GROUP OR OTHERWISE.  
23 D. PROHIBITED INTERFERENCE WITH PATIENT ADVOCACY DUTIES OF A DIRECT  
24 CARE REGISTERED NURSE INCLUDES:  
25 1. CONDUCT, ACTIONS OR OMISSIONS TO ACT THAT DIRECTLY OR INDIRECTLY  
26 ARE LIKELY TO PROHIBIT, IMPEDE, DISCOURAGE, INTIMIDATE, COERCE OR INDUCE IN  
27 ANY MANNER A DIRECT CARE REGISTERED NURSE FROM TAKING ACTION INDICATED OR  
28 AUTHORIZED BY THE PROFESSIONAL OBLIGATIONS OF PATIENT ADVOCACY DESCRIBED IN  
29 THIS ARTICLE.  
30 2. ANY ACT OF PROHIBITED INTERFERENCE COMMITTED BY AN INDIVIDUAL  
31 WITHIN THE COURSE AND SCOPE OF EMPLOYMENT AS MANAGEMENT, NURSING SERVICE OR  
32 MEDICAL PERSONNEL FOR A HOSPITAL.  
33 E. ANY EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION  
34 EMPLOYER WHO HAS AUTHORITY TO TAKE, DIRECT OTHERS TO TAKE, RECOMMEND OR  
35 APPROVE ANY PERSONNEL ACTION OF THE EMPLOYER WITH RESPECT TO A DIRECT CARE  
36 REGISTERED NURSE OR OTHER HEALTH PROFESSIONAL, WITH RESPECT TO THAT  
37 AUTHORITY, SHALL NOT TAKE OR FAIL TO TAKE, OR THREATEN TO TAKE OR FAIL TO  
38 TAKE, ANY ACTION WITH RESPECT TO A NURSE OR OTHER HEALTH PROFESSIONAL BECAUSE  
39 THE NURSE OR OTHER HEALTH PROFESSIONAL ENGAGES IN CONDUCT IN FURTHERANCE OF  
40 THAT PERSON'S DUTIES AND RIGHTS AS PRESCRIBED IN THIS ARTICLE, INCLUDING  
41 REFUSING TO OBEY AN ORDER THAT THE DIRECT CARE REGISTERED NURSE HAS  
42 DETERMINED, IN THE EXERCISE OF THE NURSE'S INDEPENDENT JUDGMENT, SHOULD BE  
43 REFUSED IN ACCORDANCE WITH THE REGISTERED NURSE'S DUTY AND RIGHT OF PATIENT  
44 ADVOCACY. ANY ACTION OR OMISSION TO ACT UNDERTAKEN IN THE COURSE OR SCOPE OF  
45 EMPLOYMENT FOR A HOSPITAL OR OTHER HEALTH CARE INSTITUTION IS CONSIDERED AN

1 ACTION OR OMISSION OF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION FOR  
2 PURPOSES OF THIS ARTICLE.

3 F. AN EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION  
4 EMPLOYER WHO HAS AUTHORITY TO TAKE, DIRECT OTHERS TO TAKE, RECOMMEND OR  
5 APPROVE ANY REPORT OF ANY INCIDENT, CONDUCT OR CIRCUMSTANCES THAT INVOLVE A  
6 DIRECT CARE REGISTERED NURSE WHO IS EMPLOYED BY THE HOSPITAL OR OTHER HEALTH  
7 CARE INSTITUTION TO ANY PROFESSIONAL LICENSING BOARD, DISCIPLINARY BODY OR  
8 INVESTIGATORY FUNCTION OR OFFICER FOR PURPOSES OF A COMPLAINT, INVESTIGATION  
9 OR IMPOSITION OF PROFESSIONAL DISCIPLINE OR OTHER ADVERSE ACTION AFFECTING  
10 THE DIRECT CARE REGISTERED NURSE AND OTHER HEALTH PROFESSIONAL'S ACTIVE  
11 LICENSE STATUS OR GOOD STANDING TO PRACTICE AS A DULY LICENSED REGISTERED  
12 NURSE OR OTHER HEALTH PROFESSIONAL IN THIS STATE, WITH RESPECT TO SUCH  
13 AUTHORITY, SHALL NOT TAKE OR FAIL TO TAKE, OR THREATEN TO TAKE OR FAIL TO  
14 TAKE, ANY ACTION WITH RESPECT TO THE DIRECT CARE REGISTERED NURSE OR OTHER  
15 HEALTH PROFESSIONAL BECAUSE THE DIRECT CARE REGISTERED NURSE OR OTHER HEALTH  
16 PROFESSIONAL ENGAGES IN CONDUCT IN FURTHERANCE OF THAT PERSON'S DUTIES AND  
17 RIGHTS AS PRESCRIBED IN THIS ARTICLE, INCLUDING WITHOUT LIMITATION REFUSING  
18 TO OBEY AN ORDER THAT THE DIRECT CARE REGISTERED NURSE DETERMINES, IN THE  
19 EXERCISE OF THE NURSE'S INDEPENDENT JUDGMENT, SHOULD BE REFUSED IN ACCORDANCE  
20 WITH THE REGISTERED NURSE DUTY OF PATIENT ADVOCACY.

21 36-1326. Retaliation; discrimination; prohibition

22 A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER SHALL NOT  
23 DISCRIMINATE OR RETALIATE IN ANY MANNER AGAINST ANY PATIENT, EMPLOYEE OR  
24 CONTRACT EMPLOYEE OF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION OR ANY  
25 OTHER PERSON BECAUSE THAT PERSON HAS:

- 26 1. PRESENTED A GRIEVANCE OR COMPLAINT.
- 27 2. INITIATED OR COOPERATED IN ANY INVESTIGATION OR PROCEEDING OF ANY  
28 GOVERNMENTAL ENTITY, REGULATORY AGENCY OR PRIVATE ACCREDITATION BODY.
- 29 3. MADE A CIVIL CLAIM OR DEMAND OR FILED AN ACTION RELATING TO THE  
30 CARE, SERVICES OR CONDITIONS OF THAT HOSPITAL OR OF ANY AFFILIATED OR RELATED  
31 FACILITIES.

32 36-1327. Enforcement by private action

33 A. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER THAT VIOLATES  
34 THIS ARTICLE IS LIABLE TO ANY AGGRIEVED EMPLOYEE FOR:

- 35 1. DAMAGES EQUAL TO THE AMOUNT OF ANY WAGES, SALARY, EMPLOYMENT  
36 BENEFITS OR OTHER COMPENSATION DENIED OR LOST TO THE EMPLOYEE BY REASON OF  
37 THE EMPLOYER'S VIOLATION OF THIS ARTICLE. IF WAGES, SALARY, EMPLOYMENT  
38 BENEFITS OR OTHER COMPENSATION HAVE NOT BEEN DENIED OR LOST TO THE EMPLOYEE,  
39 THE EMPLOYER IS LIABLE FOR ANY ACTUAL MONETARY LOSSES SUSTAINED BY THE  
40 EMPLOYEE AS A DIRECT RESULT OF THE VIOLATION.
- 41 2. INTEREST ON THE AMOUNT DESCRIBED IN PARAGRAPH 1, CALCULATED AT THE  
42 PREVAILING INTEREST RATE.
- 43 3. AN ADDITIONAL AMOUNT AS LIQUIDATED DAMAGES EQUAL TO THE SUM OF THE  
44 AMOUNT OF DAMAGES DESCRIBED IN PARAGRAPH 1 AND THE INTEREST PRESCRIBED IN  
45 PARAGRAPH 2.

1           4. EQUITABLE RELIEF AS MAY BE APPROPRIATE, INCLUDING EMPLOYMENT,  
2 REINSTATEMENT AND PROMOTION.

3           B. AN ACTION TO RECOVER THE DAMAGES OR EQUITABLE RELIEF PURSUANT TO  
4 THIS SECTION MAY BE BROUGHT AGAINST ANY HOSPITAL OR OTHER HEALTH CARE  
5 INSTITUTION EMPLOYER, INCLUDING A PUBLIC AGENCY, IN ANY COURT OF COMPETENT  
6 JURISDICTION BY ANY ONE OR MORE EMPLOYEES FOR AND IN BEHALF OF THE EMPLOYEES  
7 AND OTHER EMPLOYEES SIMILARLY SITUATED.

8           C. THE COURT IN AN ACTION BROUGHT PURSUANT TO THIS SECTION SHALL AWARD  
9 TO A PREVAILING PLAINTIFF REASONABLE ATTORNEY FEES, REASONABLE EXPERT WITNESS  
10 FEES AND OTHER COSTS OF THE ACTION.

11           D. THIS SECTION DOES NOT LIMIT THE RIGHTS AND REMEDIES AVAILABLE UNDER  
12 SECTION 23-1501 TO AN EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE  
13 INSTITUTION.

14           36-1328. Remedial standards

15           A. ANY TYPE OF DISCRIMINATORY TREATMENT OF A PATIENT BY WHOM, OR ON  
16 WHOSE BEHALF, A GRIEVANCE OR COMPLAINT HAS BEEN SUBMITTED, DIRECTLY OR  
17 INDIRECTLY, TO ANY GOVERNMENTAL ENTITY, REGULATORY AGENCY OR PRIVATE  
18 ACCREDITATION BODY RECEIVED BY A HEALTH FACILITY ADMINISTRATOR WITHIN ONE  
19 HUNDRED EIGHTY DAYS AFTER THE FILING OF THE GRIEVANCE OR COMPLAINT SHALL  
20 RAISE A REBUTTABLE PRESUMPTION THAT THE ACTION WAS TAKEN BY THE HOSPITAL IN  
21 RETALIATION FOR THE FILING OF THE GRIEVANCE OR COMPLAINT.

22           B. ANY DISCRIMINATORY TREATMENT OF AN EMPLOYEE WHO HAS PRESENTED A  
23 GRIEVANCE OR COMPLAINT OR WHO HAS INITIATED OR PARTICIPATED OR COOPERATED IN  
24 ANY INVESTIGATION OR PROCEEDING OF ANY GOVERNMENTAL ENTITY OR PRIVATE  
25 ACCREDITATION BODY, IF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER  
26 HAD KNOWLEDGE OF THE EMPLOYEE'S INITIATION, PARTICIPATION OR COOPERATION,  
27 ESTABLISHES A REBUTTABLE PRESUMPTION THAT THE DISCRIMINATORY ACTION WAS TAKEN  
28 BY THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER IN RETALIATION, IF  
29 THE DISCRIMINATORY ACTION OCCURS WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE  
30 FILING OF THE GRIEVANCE OR COMPLAINT. FOR THE PURPOSES OF THIS SUBSECTION,  
31 "DISCRIMINATORY TREATMENT OF AN EMPLOYEE" INCLUDES DISCHARGE, DEMOTION,  
32 SUSPENSION AND ANY OTHER UNFAVORABLE CHANGES IN THE TERMS OR CONDITIONS OF  
33 EMPLOYMENT, OR THE THREAT OF ANY OF THESE ACTIONS.

34           C. AN EMPLOYEE WHO HAS BEEN DISCRIMINATED AGAINST IN EMPLOYMENT  
35 PURSUANT TO THIS SECTION IS ENTITLED TO REINSTATEMENT, TO REIMBURSEMENT FOR  
36 LOST WAGES AND WORK BENEFITS CAUSED BY THE ACTS OF THE EMPLOYER AND TO AN  
37 AWARD OF REASONABLE ATTORNEY FEES AND COSTS AS THE PREVAILING PARTY.

38           36-1329. Enforcement procedures

39           A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, AN ACTION MAY  
40 BE BROUGHT PURSUANT TO THIS ARTICLE NOT LATER THAN TWO YEARS AFTER THE DATE  
41 OF THE LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS  
42 BROUGHT.

43           B. IN THE CASE OF SUCH ACTION BROUGHT FOR A WILFUL VIOLATION OF THIS  
44 ARTICLE, AN ACTION MAY BE BROUGHT WITHIN THREE YEARS AFTER THE DATE OF THE

1 LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS  
2 BROUGHT.

3 C. HOSPITALS OR OTHER HEALTH CARE INSTITUTIONS SHALL POST IN A  
4 PROMINENT PLACE FOR REVIEW BY THE PUBLIC AND THE EMPLOYEES A COPY OF SECTIONS  
5 36-1321, 36-1322, 36-1323 AND 36-1324. THE POSTING SHALL HAVE A TITLE ACROSS  
6 THE TOP IN AT LEAST THIRTY-FIVE POINT, BOLD TYPEFACE THAT STATES: "RIGHTS OF  
7 REGISTERED NURSES AS PATIENT ADVOCATES AND EMPLOYEES".

8 36-1330. Civil penalties

9 A. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER THAT IS FOUND  
10 TO HAVE VIOLATED OR INTERFERED WITH ANY OF THE RIGHTS OR PROTECTIONS  
11 PRESCRIBED IN THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN  
12 TWENTY-FIVE THOUSAND DOLLARS FOR EACH VIOLATION.

13 B. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION MANAGEMENT, NURSING  
14 SERVICE OR MEDICAL PERSONNEL THAT IS FOUND TO HAVE VIOLATED OR INTERFERED  
15 WITH ANY OF THE RIGHTS OR PROTECTIONS PRESCRIBED IN THIS ARTICLE IS SUBJECT  
16 TO A CIVIL PENALTY OF NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH  
17 SUCH VIOLATION.

18 C. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES SHALL ISSUE A  
19 NOTICE OF THE VIOLATION AND THE PENALTY PURSUANT TO TITLE 41, CHAPTER 6,  
20 ARTICLE 10. A PERSON MAY APPEAL THE PENALTY BY FILING A WRITTEN REQUEST FOR  
21 A HEARING WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE. THE DEPARTMENT  
22 SHALL CONDUCT THIS HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE  
23 DIRECTOR SHALL NOT ENFORCE THE PENALTY UNTIL THE HEARING IS CONCLUDED.

24 D. THE ATTORNEY GENERAL SHALL ENFORCE PENALTIES IMPOSED UNDER THIS  
25 SECTION IN THE JUSTICE COURT OR THE SUPERIOR COURT IN THE COUNTY IN WHICH THE  
26 VIOLATION OCCURRED.

27 E. PENALTIES IMPOSED UNDER THIS SECTION ARE IN ADDITION TO OTHER  
28 PENALTIES IMPOSED UNDER THIS CHAPTER. PENALTIES COLLECTED PURSUANT TO THIS  
29 SECTION SHALL BE DEPOSITED IN THE STATE GENERAL FUND.

30 36-1331. Access to records

31 THE DEPARTMENT OF HEALTH SERVICES HAS ACCESS TO BOOKS, RECORDS,  
32 ACCOUNTS AND ANY OTHER INFORMATION OF A HOSPITAL OR OTHER HEALTH CARE  
33 INSTITUTION REASONABLY NECESSARY TO CONDUCT AN INVESTIGATION PURSUANT TO THIS  
34 ARTICLE.

35 36-1332. Investigative authority

36 A. TO ENSURE COMPLIANCE WITH THIS ARTICLE, THE DIRECTOR HAS FULL  
37 INVESTIGATIVE AUTHORITY.

38 B. EACH HOSPITAL AND HEALTH CARE INSTITUTION MUST MAKE, KEEP AND  
39 PRESERVE RECORDS PERTAINING TO COMPLIANCE WITH THIS ARTICLE.

40 C. FOR THE PURPOSES OF ANY INVESTIGATION CONDUCTED PURSUANT TO THIS  
41 SECTION, THE DIRECTOR MAY ISSUE SUBPOENAS.

42 Sec. 3. Legislative findings; collective patient advocacy

43 A. The legislature finds that in order to ensure the free and  
44 responsible exercise of the direct care registered nurse's duties of patient  
45 advocacy, various forms of collegial cooperation and collective organization

1 and action may be necessary and appropriate for effective assertion of patient  
2 interests in the face of the very substantial and powerful conflicting  
3 interests inherent in today's highly concentrated health care industry  
4 operating under an exclusive institutional mandate of surplus revenue  
5 generation and according to workplace policies and conditions that necessarily  
6 subvert professional standards of care and nursing practice. The legislature  
7 declares that organizing or participating in an independent hospital or  
8 facility-based professional practice committees, general and specialty  
9 registered nursing professional associations, or labor organizations seeking  
10 recognition for or engaging in collective bargaining representation, are all  
11 acts of "collective patient advocacy" that direct care registered nurses may  
12 properly take to better protect their professional practice standards and  
13 their patients' interests.

14 B. The legislature finds that engaging in acts of collective patient  
15 advocacy as described in this section constitutes an exercise of the direct  
16 care registered nurse duty and right of patient advocacy.

17 C. This act confirms and creates statutory patient advocacy rights for  
18 direct care registered nurses as provided in title 36, chapter 11, article 2,  
19 Arizona Revised Statutes, as added by this act.